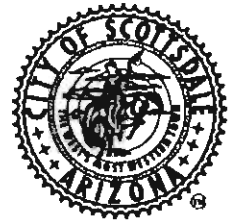


# CITY COUNCIL REPORT



Meeting Date: July 2, 2012  
 General Plan Element: **Neighborhoods**  
 General Plan Goal: ***Sustain economic well-being through neighborhood revitalization efforts***

## ACTION

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**Adopt Ordinance 4025:** Adopt Ordinance 4025 amending the powers, duties and responsibilities of the Neighborhood Advisory Commission to include the review, approval and or denial of applications pursuant to the R1-7 Residential Exterior Enhancement Program

## BACKGROUND

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### Key Items for Consideration

- On November 1, 2011 the City Council approved Ordinance 3964, establishing the Neighborhood Advisory Commission.
- Ordinance 3964, Section 2-323. Purpose; powers and duties:  
 The purpose of the Neighborhood Advisory Commission is advise and make recommendations to the City Council on policies, plans, strategies and programs for the preservation, improvement and revitalization of Scottsdale's housing and neighborhoods. The Commission may advise and make recommendations on other issues and matters as the City Council may direct. The Commission may make recommendations to other City boards and commissions.
- On March 20, 2012, the City Council adopted Resolution 8929, establishing the R1-7 Residential Exterior Enhancement Program.

## HISTORY

Various programs currently exist within the City of Scottsdale that provide financial and/or volunteer assistance with maintaining front yards, building repair, and correcting interior building, plumbing or electrical problems. The Residential Exterior Enhancement Program establishes financial assistance for homeowners seeking to improve the front facade of their R1-7 home where the homeowner voluntarily agrees to City approval of the home front facade design and agrees to establish a "Residential Façade Restrictive Covenant" on the property. This would allow the assurance that all changes to the front of the building contribute to the existing character of the neighborhood, are consistent with the original or upgraded construction materials, add value to the community and are maintained for the life of the property.

## **Goal/Purpose of Request**

The City Council adopted Resolution 8929 authorizing the R1-7 Residential Exterior Enhancement Program and directed the Budget Office to create a new account in the proposed FY 2012/13 budget for this program in the Neighborhood Services Department. With the adoption of Resolution 8929 the City Council directed the development of an ordinance granting the Neighborhood Advisory Commission the authority to review R1-7 enhancement applications. The Neighborhood Advisory Commission options for deciding an application would be: approval or denial, with no right of appeal.

Adopting Ordinance 4025 would amend the powers, duties and responsibilities of Ordinance 3964 to include authorizing the Neighborhood Advisory Commission to review, approve and or deny applications for the R1-7 Residential Exterior Enhancement Program at scheduled Hearing(s).

## **IMPACT ANALYSIS**

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### **Community Impact**

A project that completes this program will result in greater consistency in character and context of the built environment. This has proven effects of enhancing the quality of a community, and adding value and desire for living in its neighborhoods.

The City currently administers programs for home improvement assistance in HP (Historic Property) zoning, specifically for historic reinvestments. The City's CDBG (Community Development Block Grant) provides assistance for homeowners in need, specifically for home safety repairs. The City's Operation Fix It Program works with qualified homeowners to make home repairs using resources obtained through private sector donations. The proposed R1-7 Residential Exterior Enhancement Program would provide an additional means of assisting project owners, and specifically would provide an option for owners who do not qualify for the HP, CDBG or Operation Fix It programs.

### **Staffing, Workload Impact**

Existing Current Planning and Neighborhood Services staff resources are available to provide services. Staff at the One Stop Shop and the Neighborhood Services would manage the program including project owner consultations, review of applications, Neighborhood Advisory Commission Hearings, and other administrative functions.

### **Available Funding / Fiscal Impacts**

The R1-7 Residential Exterior Enhancement Program approved by the City Council authorized the Budget Office to create a new account in the Neighborhood Services department. The program is proposed with \$5,000.00 per project (home), so the program is limited to ten projects (homes) per year. A new account was established in the Neighborhood Services Dept. at \$50,000.00 for fiscal year 2012/13. The City Council would need to reauthorize the funding each fiscal year.

## **OTHER BOARDS & COMMISSIONS**

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### **Neighborhood Advisory Commission Recommendation**

Proposed Ordinance 4025 was reviewed by the Neighborhood Advisory Commission at its May 28, 2012 meeting and no concerns or issues were identified with the draft language.

## **OPTIONS & STAFF RECOMMENDATION**

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### **Recommended Approach**

Adopt Ordinance 4025, amending Ordinance 3964 and authorizing the Neighborhood Advisory Commission to review, approve and or deny applications at scheduled Hearing(s) for the R1-7 Residential Exterior Enhancement Program.

## **RESPONSIBLE DEPARTMENT**

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### **Planning, Neighborhoods & Transportation**

Current Planning Services

Neighborhoods Services

City Attorney's Office

## **STAFF CONTACT**

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Luis Santaella, Senior Assistant City Attorney; lsantaella@scottsdaleaz.gov

Greg Bestgen--Staff Representative, Neighborhood Advisory Commission gbestgen@ScottsdaleAz.gov

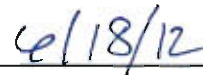
## **APPROVED BY**

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Raun Keagy, Neighborhood Services Director

480-312-2373 rkeagy@scottsdaleaz.gov



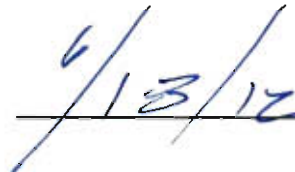
Date



Kroy Ekblaw, Administrator

Planning, Neighborhood and Transportation

480-312-7064 kekblaw@scottsdaleaz.gov



Date

## **ATTACHMENTS**

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1. Proposed Ordinance 4025
2. Resolution 8929
3. Neighborhood Advisory Commission Minutes, May 28, 2012

ORDINANCE NO. 4025

AN ORDINANCE OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AMENDING SCOTTSDALE REVISED CODE SECTION 2-223 PERTAINING TO THE PURPOSE, POWERS AND DUTIES OF THE NEIGHBORHOOD ADVISORY COMMISSION

BE IT ORDAINED by the Council of the City of Scottsdale as follows:

Section 4. Section 2-223 of the Scottsdale Revised Code pertaining to the purpose, powers and duties of the Neighborhood Advisory Commission is amended as follows with new language shown in shaded format:

DIVISION 10. NEIGHBORHOOD ADVISORY COMMISSION

Section 2-223. Purpose; powers and duties.

(A) The purpose of the Neighborhood Advisory Commission is to advise and make recommendations to the city council on policies, plans, strategies and programs for the preservation, improvement and revitalization of Scottsdale's housing and neighborhoods. The commission may advise and make recommendations on other issues and matters as the city council may direct. The commission may make recommendations to other city boards and commissions.

(B) In accordance with City Council Resolution Number 8929 approve or disapprove applications made pursuant to the R1-7 Residential Exterior Enhancement Program.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Arizona, this 2nd day of July, 2012.

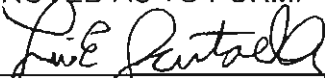
ATTEST:

CITY OF SCOTTSDALE, An  
Arizona municipal corporation

\_\_\_\_\_  
W.J. "Jim" Lane, Mayor

\_\_\_\_\_  
Carolyn Jagger, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Bruce Washburn

City Attorney

By: Luis E. Santaella  
Senior Assistant City Attorney

RESOLUTION NO. 8929

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE R1-7 RESIDENTIAL EXTERIOR ENHANCEMENT PROGRAM FOR R1-7 ZONED SINGLE FAMILY HOMES BUILT BY OR BEFORE 1979.

WHEREAS, the City of Scottsdale has an interest in the preservation of neighborhoods; and

WHEREAS, the Council finds it is in the best interest of the City to establish the R1-7 Residential Exterior Enhancement Program in order to encourage design review for the exterior of single family remodeling projects for these more difficult and typically older subdivisions; and

WHEREAS, the mission of the Neighborhood Advisory Commission is to support improved neighborhoods through education and funding as well as focusing on creating sustainable programs for neighborhoods, and the Council would like to task the Neighborhood Advisory Commission with responsibilities under this new program; and

WHEREAS, this program is consistent with the Goals and Policies set forth in the Neighborhoods and Housing Elements of the General Plan; and

WHEREAS, this program would be subject to and contingent upon appropriation during the upcoming 2012/2013 Fiscal Year Budget and future budget appropriations.

NOW, THEREFORE, LET IT BE RESOLVED, by the City Council of the City of Scottsdale, Maricopa County, Arizona, as follows:

Section 1. That the Council establishes the R1-7 Residential Exterior Enhancement Program, subject to future budget appropriations, where Scottsdale single family residence owners in R1-7 districts with homes that were built before 1979 on property that does not contain a Planned Community (PC) or Planned Residential Development (PRD) zoning designation, can apply for and potentially receive City funds to reimburse them for up to \$5,000.00 to improve the street visible exterior of their home.

Section 2. The Neighborhood Advisory Commission will review and make the determination of which R1-7 (Single-family Residential 7,000 Square Feet per Lot) zoning district exterior enhancement projects will be approved, subject to funding, on a first come first serve basis until the funding for each fiscal year is depleted. The Neighborhood Advisory Commission's decision will be final.

Section 3. In order to participate in this program, applicants must complete all required documents and comply with all requirements, be willing to submit to a public design review hearing and process before the Neighborhood Advisory Commission, fully comply with any and all design conditions and enter into an agreement whereby the City will acquire a recorded easement or deed restriction requiring the owner and any subsequent owners to

maintain and preserve the exterior improvements or seek City approval prior to altering the same.

Section 4. Council authorizes and directs City Staff, in consultation with the City Attorney, to prepare the necessary agreements, forms, criteria, applications and recorded documents to implement this program, provided the program is appropriated in Fiscal Year 2012/2013. Council further authorizes and directs City Staff to prepare and bring back any ordinance amendments necessary to add this responsibility to the Neighborhood Enhancement Board's responsibilities.

Section 5. Council has determined that this program serves the public purpose of further enhancing and protecting the City's R1-7 neighborhoods. Council further specifically finds that the City will receive substantially equivalent value for all public funds spent up to the maximum amount of \$5,000.00 for each house that qualifies in the form of each homeowner's written agreement to undergo the required additional design review for their exterior enhancement project and in return for the homeowner's agreement providing that the exterior improvements in question will be maintained and preserved, which will be recorded on the property and which will run with the property.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Maricopa County, Arizona, this 20<sup>th</sup> day of March, 2012.

ATTEST:

CITY OF SCOTTSDALE, an Arizona  
Municipal Corporation

By: 

Carolyn Jagger  
City Clerk

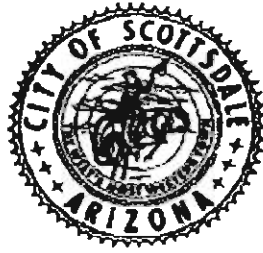
By: 

W.J. "Jim" Lane  
Mayor

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY

By: 

Bruce Washburn, City Attorney  
By: Sherry R Scott, Deputy City Attorney



**DRAFT**

**NEIGHBORHOOD ADVISORY COMMISSION  
REGULAR MEETING**

**COMMUNITY DESIGN STUDIO  
7506 E. INDIAN SCHOOL ROAD, SCOTTSDALE, AZ 85251  
MAY 23, 2012**

**PRESENT:** Robert Rogers, Chair  
Harold Roth, Vice-Chair  
Anne Driscoll  
Michael Gonzalez  
Nicholas Thomas

**ABSENT:** Jeffrey Groudan  
Renee Targos

**STAFF:** Greg Bestgen, Staff Representative  
Luis Santaella, Assistant Senior City Attorney  
Jack Shafer, Assistant City Attorney  
J.P. Twist, Chief of Staff to the Mayor

**Call to Order/Roll Call**

Chairman Rogers called the regular meeting of the Neighborhood Advisory Commission to order at 5:34 p.m. A formal roll call confirmed the members present as stated above.

Mr. Bestgen welcomed new Commissioner Michael Gonzalez to tonight's meeting.

**Public Comment**

No members of the public wished to address the Commission.



**1. Approve March 28, 2012 and April 23, 2012 Draft Summary Meeting Minutes**

Vice-Chair Roth requested that one correction be made to the April 23, 2012 minutes, on the fourth paragraph from the bottom of page 5 the word ECO should be changed to ECHO.

**COMMISSIONER THOMAS MOVED TO APPROVE THE MARCH 28, 2012 REGULAR MEETING MINUTES OF THE NEIGHBORHOOD ADVISORY COMMISSION AS PRESENTED. COMMISSIONER DRISCOLL SECONDED THE MOTION, WHICH CARRIED BY A VOTE OF FOUR (4) TO ZERO (0). COMMISSIONER GONZALEZ ABSTAINED FROM VOTING. COMMISSIONERS GROUDAN AND TARGOS WERE ABSENT.**

[At the end of the meeting it was noticed that the agenda referenced the approval of the April 23, 2012 meeting minutes, rather than April 25, 2012. Staff agreed to make the correction and reagendaize the approval of those minutes for the June 27, 2012 meeting.]

**2. Presentation, discussion and possible suggestion to staff regarding a proposed regulatory license ordinance to allow neighborhood street vending**

Chairman Rogers introduced Mr. Shafer and Mr. Twist, explaining that they would be discussing the documents titled "Neighborhood Street Vendor Ordinance, Introduction of Draft Ordinance" and "Article XXI. Neighborhood Street Vendors."

Mr. Twist recalled receiving an e-mail from a 16-year-old stating that he owns an ice cream truck business and that he was appalled that ice cream trucks were not allowed in Scottsdale, even though Mayor Lane claims to be pro business. After some investigation staff found that Scottsdale is the only city in the Valley that does not allow ice cream trucks.

Mr. Twist reported that he met with Mr. Shafer of the City Attorney's Office to research allowing ice cream trucks. Over the past three months they drafted a Neighborhood Street Vendor Ordinance which would allow ice cream trucks and other vendors to do business in the Scottsdale rights of way.

Mr. Twist recalled that mobile vending was banned in the late 70's and early 80's through Ordinance 16-352 because of ice cream vendors dealing drugs. He added that the City has very rarely come down on street vendors for operating their business without a license. The only complaints from citizens have been inquiries about why the City does not allow street vending.

Mr. Twist reported that staff brought this draft ordinance to the Transportation Commission last month for an evaluation of it based on the use of the right-of-way. The Transportation Commission recommended bringing it to City Council for approval.

He explained that the draft Neighborhood Street Vendor Ordinance highlights include the following elements:

- Hours of operation, length of time at one location

Mr. Twist stated that in order to be sensitive to the impact this may have on neighborhoods they developed a sunrise to sunset model wherein the vendor could operate as long as the sun was shining.

- Length of time at one location

He stated a street vendor cannot be stationary at one location for longer than one hour.

- Must be licensed

Mr. Twist explained that in order to be licensed by the City all street vendor employees that would be operating the vehicle must be fingerprinted and pass a background check. Anyone convicted of either dealing drugs or a crime against a child would not be licensed.

- Residential streets only

Mr. Twist said that street vendors would only be allowed on truly residential streets where there are no lines and a speed limit of 25 mph.

- Not allowed downtown

He emphasized that they do not want street vendors selling food in the entertainment district.

- Noise restrictions

Mr. Twist opined that the biggest concern that citizens might have would be ice cream trucks music playing too long or at inappropriate times. They are requiring street vendor trucks to have a pleasing melody which can only be played while in motion.

#### **Discussion:**

In response to Vice-Chair Roth's inquiry regarding whether has any ordinance in force that controls the mobile food trucks currently operating within the City of Scottsdale, Mr. Twist responded that street vendors were currently banned from sitting in a right of way, pointing out that "roach coaches" are permitted on private property when invited by the property owner.

He elaborated that this ordinance bans the use of heat during food preparation and only allows prepackaged foods to be sold in order to adhere to zoning requirements.

In response to Vice-Chair Roth's inquiry regarding whether mobile car washes were allowed on the street, Mr. Shafter stated that this ordinance only created a limited right to sell tangible property in the right-of-way. Mr. Santaella explained that mobile car washes are illegal because their runoff would be going into the stormwater system.

Mr. Twist pointed out that this ordinance only supports vehicles and does not support push cart food vendors.

In response to Commissioner Driscoll's inquiry regarding whether the vendors are required to do business with cash or credit card, Mr. Twist responded that they could

not place restrictions on this element of business, even though most of the vendors now take credit cards.

In response to Commissioner Driscoll's inquiry regarding who to call when a street vendors was not complying with the ordinance, Mr. Shafer explained that the vendors are required to display the City neighborhood street vendor license number and City's Tax and License Department's phone number somewhere on their vehicle.

Mr. Twist added that the vendor's cell phone must be available to the Tax and License Department in order to address any citizen complaints expeditiously.

Commissioner Driscoll inquired whether anyone answers the Tax and License Department phone after 5:00 p.m. and Mr. Shafer agreed to find that out and get back to her.

In response to Vice-Chair Roth's inquiry regarding why Section 16-626 related to school zone restrictions does not restrict street vendors to school days only, Mr. Shafer stated that they would consider including language that states that the vendors are allowed while school was in session.

In response to Vice-Chair Roth's inquiry regarding why Section 16-634 related to special rules does not require the vendors to supply trash receptacles for their customers, Mr. Shafer responded that they did not see this topic addressed by other cities in their street vendor ordinance.

Discussion followed regarding the need for Sections 16-628 and 16-629 to clearly explain that the costs to be incurred by the vendors was \$100.00 for the license, \$40.00 for fingerprinting and background check, and \$10.00 for the photograph and badging process.

Mr. Santaella explained that the fingerprinting fee is currently \$23.00, noting that DPS sets that rate, which fluctuates from time to time.

In response to Commissioner Gonzalez' inquiry regarding whether staff conferred with the Health Department on this ordinance, Mr. Twist explained that although Scottsdale does not have a City Health Department, all food vendors are required to obtain a food handler's card.

A lengthy discussion ensued regarding the state law related to disturbing the peace and whether there was a way for the City to regulate a specific decibel level for street vending vehicles beyond just requiring a pleasing melody.

Mr. Twist recalled that during the ordinance drafting process staff did not find other cities regulating the decibel levels. Mr. Santaella said he worked on the City's noise ordinance in the past and agreed to work on this issue with Mr. Shafer and Mr. Twist.

The Neighborhood Advisory Commission concurred with the Transportation Commission's recommendation that the Neighborhood Street Vendor Ordinance be brought before City Council for approval. Mr. Santaella recommended that the Council Report reflect that there was a general concurrence from the NAC during tonight's meeting.

Mr. Twist agreed to send Mr. Bestgen answers to the Commissioners' questions brought up during tonight's discussion.

**3. Presentation of Amended NAC Ordinance # 4025**

Mr. Santaella reported that Ordinance 4025 now reflects the first proposed change to it since the creation of the NAC. He stated that Section 2-223 related to the purpose, powers and duties reflects the following newly added subparagraph B:

- (B) In accordance with City Council Resolution Number 8929 approve or disapprove applications made pursuant to the R1-7 Residential Exterior Enhancement Program.

Mr. Santaella explained that once City Council approves this ordinance the NAC would be taxed with the authority and responsibility of approving applications offered through the R1-7 Residential Exterior Enhancement Program.

He invited the Commission to discuss their approval of this addition to Ordinance 4025 before staff adds it to City Council's July 2, 2012 consent agenda.

Further discussion of the matter ensued, whereupon the Commission agreed with the language of new subparagraph B and recommended that Ordinance 4025 be agendized for review and approval by City Council.

Chairman Rogers suggested that they continue with the Residential Exterior Enhancement Program discussion under agenda item 5.

**4. Presentation, discussion and possible action regarding the development of recommendations to the City Council regarding the objectives and work plan of the Commission as required by Ordinance No. 3964, Section 5, including follow-up to work plan initiated on January 21, 2012 at Work Study Session**

Mr. Bestgen recalled that Mr. Stockwell called him today to check on the status of the Commission's objectives and work plan. He stated that tonight the Commission must finalize and approve their work plan so it could be submitted to City Council.

Vice-Chair Roth opined that some of the changes discussed during the April 25, 2012 meeting were not reflected in the final draft work plan.

He recalled that Commissioner Thomas previously suggested that the word "strategies" on line 3 of the work plan be moved in front of "policies" on line 2.

Vice-Chair Roth recalled recommending that the words "is empowered to" on line 10 should be replaced with "may." He stated that on line 19 the word "citizens" was supposed to be replaced with the word "residents."

Chairman Rogers suggested deleting the word "may" so that the sentence reads as follows:

"Further, the Commission make recommendations to other City boards and commissions."

Commissioner Thomas recalled a discussion to include a bullet point indicating that the Commission would "organize and host two suggested neighborhood events such as a Code Cares project and an annual adopt a street cleanup event."

Mr. Bestgen agreed to add the words "such as" in front of the colon on line 20 of the work plan in order to reflect them as suggested activities. Vice-Chair Roth stated that the Commission agreed to list an annual adopt a street cleanup event as a specific action rather than a suggested activity.

He said the word "Goal" should be inserted in front of item numbers 1 through 5, with the action number being inserted in front of each corresponding bullet point.

Vice-Chair Roth recalled that Commissioner Thomas recommended rewording the bullet point underneath item 3 to state that "Commission members officially designated by the Commission shall gather information or discuss Commission issues when attending other board or commission meetings."

Mr. Bestgen argued that it was implied that Commissioners could attend other meetings as individuals. Commissioner Thomas stated that they must avoid any misconceptions that the individual was representing the Commission unless they state that they are attending in an official capacity.

Vice-Chair Roth suggested adding the words "design standards" after the first word "review" on line 40 of the work plan.

He recalled a previous discussion to add a second bullet item underneath section 3 that states that includes the review of CDBG, HOME and other related housing programs and make recommendations to the Human Services Commission.

Mr. Bestgen stated that he was counseled that the Commission does not need to include that in their work plan. Vice-Chair Roth opined that they should be specific regarding the purview of the Commission, noting that the legal department and City Council has the ability to reject the bulleted item.

Chairman Rogers recommended deleting the word "may" on line 31 of the work plan. Mr. Bestgen agreed to make that change, even though the language used came directly from the Commission's ordinance.

**VICE-CHAIR ROTH MOVED TO APPROVE THE NEIGHBORHOOD ADVISORY COMMISSION'S CITY COUNCIL RECOMMENDATIONS AND WORK PLAN FOR 2012-2013 AS AMENDED. COMMISSIONER THOMAS SECONDED THE MOTION, WHICH CARRIED BY A VOTE OF FIVE (5) TO ZERO (0). COMMISSIONERS GROUDAN AND TARGOS WERE ABSENT.**

**5. Presentation, review and discussion of Residential Exterior Enhancement Program**

Mr. Bestgen explained that they would be reviewing the draft R1-7 Residential Exterior Enhancement Program Summary, Design Guidelines, and Residential Facade Restrictive Covenant prepared for the launching of the program in July 2012.

He stated that they plan to have ten applications for review by the Commission during its September 26, 2012 public hearing, allowing approximately 20 minutes of review time per application.

Mr. Bestgen directed the Commission to start the discussion with the review of the draft program brochure, noting that the title "Program Summary" would be changed to "Program Guidelines."

He summarized that this was a reimbursement program that which allows applicants to apply for up to \$5,000 for street visible exterior improvements to single-family residential homes with checks issued to the property owners when they submit project receipts to staff.

Mr. Bestgen stated that the program has a current estimated budget of \$50,000, with the expectation of ten final applications coming before the Commission for review as a result of the current time constraints, with a waiting list of an additional ten applications.

**Program Summary/Design Guidelines Discussion:**

In response to Commissioner Gonzalez' inquiry regarding whether the program was for owner occupied homes only, Mr. Bestgen responded that only owners of single-family residential homes were allowed to apply, whether they live in the homes or not, since the program was intended to strictly make exterior improvements to the R1-7 zoning areas within Scottsdale.

In response to Chairman Rogers' inquiry regarding whether the Commission would take into consideration the needs of the applicant during the review process, Mr. Bestgen responded no since they must be bound by the ordinance which states that this was a first-come first-served program and not a needs based program.

In response to Commissioner Driscoll's inquiry regarding how people will be informed of the program's existence and was the receipt of ten applications a shutoff point, Mr. Bestgen explained that the number of applications that make it to the September hearing would depend upon applicants being able to complete their projects by the April 30, 2013 cutoff.

He elaborated that an inspection of the projects must be completed before staff prepares the check requisitions for reimbursement of funds expended by the applicants, pointing out that the applicants must provide before and after photographs to prove that the improvements have been made.

Mr. Bestgen discussed the fact that Michelle and Jan Horn would be initiating a marketing program on July 1, 2012. Interested individuals would be able to go to the City's website and register in order to get a number for the application process.

Mr. Bestgen explained that in order to apply for the program the applicants' projects must relate to front facade improvements to: additions, carports, reversal of alterations, reconstruction of details, roofs and fascia boards, foundations and posts, exterior building walls, windows or doors, masonry or stucco, and trim or paint. He summarized that this program was available for single-family homes located throughout Scottsdale that meet the following location criteria:

- Built before 1979
- R1-7 zoning (single-family residential 7,000 square foot lots)
- Without Planned Community or Planned Residential Development zoning

A lengthy discussion ensued regarding homes located within planned communities or areas governed by homeowner associations being excluded from the program.

In response to Commissioner Thomas' inquiry regarding whether this program would accept landscaping projects, Mr. Bestgen explained that the City website has several programs for landscaping, plumbing, and other housing and community assistance programs.

Commissioner Thomas argued that the current timeline for this program's approval process would exclude people who want to leverage a CDBG application in conjunction with this program. Mr. Bestgen stated that an applicant who receives CDBG funding could work with staff regarding the deadlines if their project meets the criteria set out in the program guidelines.

He reported that Mr. Woods was the principle planner in charge of developing the guidelines in order to address southern Scottsdale neighborhoods that have fallen out of conformity with facade design consistency.

Commissioner Thomas reminded staff that there are court precedents barring governing bodies from regulating the color of the exterior of a private home.

In response to Chairman Rogers' inquiry whether anyone could apply for less than the \$5,000 limit, Mr. Bestgen confirmed that they could.

Vice-Chair Roth pointed out that most ranch homes built prior to 1997 do not extend to the back. Building an addition to the second floor of the back of the house would not blend well with the rest of the home. The diagrams at the bottom of page 6 and the top of page 7 of the Design Guidelines do not clearly reflect how a second story addition should look upon completion of the project.

Mr. Bestgen recalled reviewing photographs for second story addition permits that were approved and turned out beautifully. He agreed to have Mr. Wood clarify which diagram was supposed to be the bad example of a second story addition.

Mr. Bestgen reported that at next month's meeting the Commission would review two test applications which have already been reviewed by the Planning Department to see whether the 20-minute review time for each application would be sufficient.

He summarized that the pre-application portion of the program begins in July and all applications must be received by August 2012 in order for staff to prepare and email them to the Commissioners prior to the September 26, 2012 hearing.

Commissioner Driscoll suggested that under the Program Overview section of the Program Summary "first-come-first served basis" should be changed to "first-come first-served basis." Chair Rogers recommended that in the first paragraph under the Program Overview section "street visible" should be changed to "street-visible."

**Restrictive Covenant Discussion:**

In response to Vice-Chair Roth's inquiry regarding whether the covenant was a facade easement, Mr. Bestgen responded no, stating that after a long discussion staff decided that this program would not have an appeal process.

In response to Chairman Roger's inquiry regarding what the City's recourse was when using a residential facade restrictive covenant, Mr. Bestgen explained that the covenant passes with the property through the deed and should someone do something egregious it would be handled on a case by case basis legally.

In response to Vice-Chair Roth's inquiry regarding why the life of the covenant was perpetual rather than a specific number of years, Mr. Bestgen responded that from a legal standpoint specific language must be used so the City can grant the funding.

Discussion ensued regarding subsection 1.3 of the Restrictions section on page 2 of the covenant restricting homeowners from obstructing the view of the backyard. Mr. Bestgen agreed to review this section with the legal department in order to find out what that section was meant to address.

Vice-Chair Roth recommended that staff provide a checklist for the applicants to fill out that explains what each improvement was supposed to accomplish, rather than requesting an open-ended summary.

In response to Chairman Rogers' inquiry regarding whether the anticipated budget of approximately \$50,000 would cover the cost of preparing legal documentation when necessary, Mr. Bestgen confirmed that it would. He explained that the recording fees are included in the permitting process, noting that a few fees laid out within the guidelines are not reimbursable.

Discussion ensued regarding the applications being submitted to Commissioners by mail at least two weeks prior to the September 26, 2012 hearing for review.

Vice-Chair Roth suggested that the applicants submit digital photographs rather than prints, to save staff having to scan them in for the information packets.

Chairman Rogers directed the Commissioners to go back to agenda item 4 to finalize their work plan.

**6. Staff Updates: Staff and Commission updates (A.R.S. § 38-431.02 (K))**

Mr. Bestgen distributed copies of Ms. Cantor's May 23, 2012 email wherein she encourages the Commission to stay involved in certain activities within the City along with a nice summary of her thoughts on each Commissioner's strengths within the Commission.

Chairman Rogers expressed the Commission's collective appreciation of Ms. Cantor's numerous contributions to the City and its Boards and Commissions.

Mr. Bestgen reported that the Mayor did a beautiful job of highlighting Ms. Cantor's contributions during the recent Board and Commission recognition ceremony.



He explained that Commissioner Targos is still on long-term disability. After further discussion, the Commission suggested that Commissioner Targos be able to attend future meetings via teleconference with her prior absences being considered excused absences so that she does not lose her position on the Commission.

### **Adjournment**

With no further business to discuss, being duly moved and seconded, the meeting adjourned at 7:40 p.m.

Respectfully submitted,  
AV Tronics, Inc. DBA AVTranz